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UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Stephen E. FISCHER et al.

Group Art Unit: 2122

Appln. No. : 09/942,419

Examiner: F. Ferris, III

Filed : August 30, 2001

For : TETRAHEDRALIZATION OF NON-CONFORMAL THREE-DIMENSIONAL MIXED ELEMENT MESHES

PETITION TO WITHDRAW HOLDING OF ABANDONMENT OR ALTERNATIVELY TO REVIVE ABANDONED APPLICATION UNDER 37 C.F.R. 1.137(b)

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the Notice of Abandonment dated February 2, 2006, Applicants are timely requesting withdrawal of the holding of abandonment or alternatively petitioning to revive the abandoned application under 37 CFR 1.137(b).

A Notice of Allowance and Fee(s) Due and Notice of Allowability was mailed on September 30, 2005. The Notice of Allowability indicated that corrected drawings must be submitted

including changes required by the attached Examiner's Amendment/Comment or in the *Office action or Paper No./Mail Date 4/14/05-Fig. 7.* (Emphasis Added.)

The issue fee was timely paid. On February 2, 2006, the U.S. Patent Office mailed a Notice of Abandonment indicating that corrected drawings were not timely filed.

02/14/2006 SZENDIE1 00000163 090458 09942419
01 FC:1453 1500.00 DA

Applicants request withdrawal of the Notice of Abandonment or alternatively petition to revive the abandoned application under 37 CFR 1.137(b) based on the following reasons.

Withdrawal of Holding of Abandonment

Contrary to the Notice of Allowability, Applicants submit that there was no Office action or Paper No./Mail Date of 4/14/05-Fig. 7. After a thorough review of the file history, Applicants note that an Office Action was mailed on January 14, 2005 and another Office Action was mailed on July 12, 2005. There is no record, whatsoever, that an Office Action was mailed on April 14, 2005. Accordingly, the Notice of Allowability is incorrect and no reply was actually required.

However, in the Office Action of January 14, 2005, the Examiner requested a corrected Figure 7. In response to the Office Action of January 14, 2005, Applicants timely filed an Amendment on April 14, 2005. Accompanying this Amendment was a timely and properly filed new Figure 7. This new sheet with Figure 7 is the corrected figure that was incorrectly requested in the Notice of Allowance. A date stamped receipt evidencing the filing of the replacement figure is attached hereto. As the Office is aware, the stamped receipt provides *prima facie* evidence that the reply was timely filed. As a courtesy, Applicants also attached the new Figure 7 filed with the Amendment on April 14, 2005.

In view of the above facts, Applicants submit that the Notice of Allowability was in error and that, in any event, Applicants have fully complied with the Examiner's request to provide a replacement Figure 7. No Fee is required.

**Petition to Revive Abandoned
Application Under 37 C.F.R. 1.137(b)**

The entire delay in filing the required reply from the due date for the reply (i.e., December 30, 2005) until the filing of a grantable petition was unintentional. Although Applicants submit that Figure 7 was already filed, Applicants attach hereto a new Figure 7 in an attempt to comply with the request on the Notice of Allowability. The petition fee



GREENBLUM & BERNSTEIN, P.L.C.
Intellectual Property Causes
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

4/13/2005



File In: M4/rwv

The Patent Office Date stamp below is an acknowledgement that, on the date indicated, the Patent Office received the following:

One new sheet of drawings (Fig. 7)

Amendment under 1.11

Executed Assignment and cover letter

Executed S.E.S. S.E.S. Assertion

Req. for Ext. of Time

Fee Filing

Recording

Issue

Extension

Publication

COPY

Fee Transmittal

Maintenance Fee Payment

PTOL-85B Issue Fee & Publication Fee
(with copy)

Cover Letter Regarding Drawings

Design Patent Application Transmittal

Utility Patent Application Transmittal

Provisional Application Cover Sheet

Request for Continued Examination
(RCE) including Submission

Cover Letter

Check No. for \$

Credit Card Payment

(Form PTO-2038) for \$

Rule 53b and 53f Letter for
Unexecuted Application

Application Data Sheet

One replacement sheet of drawings (Fig. 7)

Claim of Priority & Certified
Copy of _____

Declaration Executed
 Unexecuted

Copy from parent

Transmittal Letter

Patent Application

Provisional Reexam

Reissue Design

Continuation CIP

Divisional

_____ pages (w/abstract)

_____ claims _____ independent

_____ sheets of drawings

_____ figures

I.D.S. form PTO-1449 &
Documents as attached

as listed on
reverse

One self-addressed postcard

Certification under 1.97(e)

Certificate of Mailing (C-O-M)

Returned Envelope

In the matter of : TETRAHEDRALIZATION OF NON-CONFORMAL THREE-DIMENSIONAL MIXED ELEMENT MESHES

Applicant : Stephen E. FISCHER *H.W.*

Application No. : 09/942,419

Filed : 8/30/2001

Patent No. :

Issued :

Dockett : P26830

RW-M

as set forth in § 1.17(m) is authorized to be charged to IBM account no. 09-0458. Applicants believe that a terminal disclaimer is not required. Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

This request is timely since it is filed within 2 months from the mailing date of the Notice of Abandonment, i.e., February 2, 2006.

Respectfully submitted,
Stephen E. FISCHER et al.



Andrew M. Calderon
Registration No. 38,093

GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191